

**REMARKS**

Applicant files this response to the Office Action mailed May 27, 2005.

This application was filed with 25 claims including independent claims 1,5,24 and 25, all of which remain in the application. All 25 claims remain in the application. Claims 24 has been amended for clarification. Claim 25 has been amended to more particularly point out and distinctly claim Applicant's invention.

Applicant's attorney expresses his appreciation to the Examiner for the courtesies extended during the telephone interview with respect to this case on August 29, 2005. During the interview, the references cited by the Examiner were discussed, particularly Johnson and Robinson, and the claimed invention was distinguished over the cited references. The Examiner agreed that all the claims except for claims 24 and 25 were allowable over the cited references. She wanted to review further claim 24, and called to Applicant's attention an additional reference that had not been cited in the original office action. Applicant's attorney agreed to review the additional reference (U.S. Patent no. 4,271, 974) and provide comments as appropriate. Such comments will be filed in a supplemental response. Also discussed was a proposed amendment to claim 25 which specifically claimed that the teeth of the outer cap were on its underside. The Examiner indicated that the proposed amendment, which is shown in the claims above, would make the claim allowable over the Johnson reference.

Referring not to the outstanding Office Action, the examiner rejected 1, 3-15, 17 and 25 under 35 U.S.C. 102(b) as being anticipated by Johnson (5,092,477). In paragraph three of the detailed office action, six lines into the paragraph, the Examiner, referring to the features of the Johnson reference, states "...and the channel being shaped to allow one of the tabs to pass through the channel when one of the tabs and the channel are aligned." The quoted language is from the last phrase of claim one, and in fact, Johnson does have a structure that does allow tabs to pass through channels when the tabs and channels are aligned. However, the remainder of the last phrase of the claim is not addressed by the examiner and certainly not shown or anticipated by Johnson. Specifically, that last phrase of claim 1 states "...whereby when one of said tabs and said channel are aligned, said outer cap can be easily removed from its nesting relationship relative to said inner cap." The Examiner's attention was directed to column 3 of Johnson beginning at line 40 when Johnson states:

Inner surface 76 also has a circular lip portion 91, which is disposed adjacent to bottom edge 78. Lip 91 has an inside diameter, which is slightly smaller than the outside diameter of ridge 50, so that inner cap 16 cannot fall out of outer cap 29 after assembly thereof.

Johnson specifically contemplates that the two caps of his structure will remain in nested relationship and cannot fall out of that relationship or be removed from it regardless of how the two separate caps are aligned after they are assembled. Applicant's invention, on the other hand, specifically contemplates the removal of the outer cap so that the remaining inner cap can function in a non-

childproof mode for the elderly who do not want to have a childproof medicinal container. The concept of this shellable structure also allows for substantial savings to pharmacists and the like, because they can purchase the inner shell and the outer shell as separate units and only assemble the outer shell onto the inner shell when filling a prescription if the customer wants to have a childproof container. For those customers who do not want a childproof container, the outer cap is not assembled and the pharmacist thereby saves money. This specific function and feature is not disclosed in the Johnson reference and therefore the Johnson reference neither anticipates nor would render obvious the invention that is claimed in claim 1. Since claims 2, 3, 4 depend from claim 1, they should also be allowable.

Referring now to claim 5, in element "e" of claim 5 there is claimed "... a channel in said outside surface of said circumferential side wall, side channel running from said groove to the upper, outside surface of the top of said cap. The inner cap of Johnson's simple does not have a groove that runs all the way to the top of the cap. Johnson's groove or channel 42 runs between channel 36 and the two 170° channels 38, 40 (See Figure 13 of Johnson). Thus, Johnson neither anticipates nor renders obvious the invention claimed in claim 5. Since claims 6-23 depend from claim 5, they should also be allowable over the prior art cited by the examiner.

Referring to Claim 24, the amendment suggested by the Examiner in paragraph 1 of the detailed office action has been made to correct the informality.

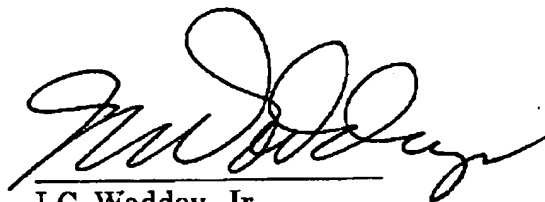
Referring to the substantive rejection of Claim 24 under 35 USC § 102(e) as being anticipated by Robinson (6,508,373), the Robinson patent simply does not suggest or anticipate the invention claimed in Claim 24. Claim 24 recites that "said tab will snap into said notch and prevent any further rotational movement in the closing direction of the cap relative to said container", but that the ramp allows the container to be rotated in the opening direction with the ramping surface of the notch ramping over the ramp surface of the laterally displaced tab. Robinson on the other hand, allows the cap to be screwed onto the container as tight as anyone physically is capable of doing and when the closure is rotated counterclockwise (as reviewed from above) to remove the cap, it will bring abutment surface 60 of lug 62 into opposed abutment with abutment face 46 of lug 42 and prevent removal of the closure (see column 4 beginning at line 15). Thus, the teachings of Robinson, and its structure, are exactly the opposite of the invention of applicant. Applicant's invention is designed to limit the amount of closure torque that can be applied to a cap being placed on a container and allow the cap to be freely removed from the container by ratcheting over the cam surface. Robinson on the other hand, allows the user of the system to apply as much torque as he or she would like in the closure direction but stops the removal of the cap by the engagement of a lug with the abutment surface.

With respect to Claim 25, an amendment has been offered that will distinguish the claims invention from the Johnson patent. Specifically, subparagraph "c" of Claim 25 has been amended to read "a series of angular

abutments on the underside of said top wall, said angular abutments designed to serve as cam followers for cooperative engagement with a series of angular abutments on a closure cap...". The teeth on the Johnson outer cap are on the side wall not on the underside of the top wall and therefore Claim 25 as revised is not anticipated by Johnson. Furthermore, the more accurate description of the location of the teeth on the underside of the outer cap of applicant's invention is important because it allows the axial force on the outer cap to cause the teeth to engage in teeth on the inner cap and open the closure when the device is in the child proof mode.

Based on the statements made during the interview and the arguments made herein, it is submitted that the application is in condition for allowance and such action is earnestly solicited.

Respectfully submitted,



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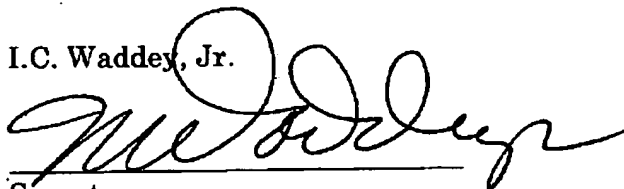
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**CERTIFICATE OF FACSIMILE FILING**

I hereby certify that this Response and Amendment is being facsimile transmitted to the U.S. Patent and Trademark Office (facsimile number 1.703.872.9306) on this the 29<sup>th</sup> day of August, 2005.

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8/29/05

Date